

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

\* \* \*

KEVIN RAY HOLMES,

Petitioner,

v.

NEVADA DEPARTMENT OF  
CORRECTIONS, *et al.*,

Respondents.

Case No. 3:21-cv-00364-MMD-CSD

ORDER

Petitioner Kevin Ray Holmes filed a petition under 28 U.S.C. § 2254 (ECF No. 6). On July 15, 2022, the Court granted in part and denied in part Respondents' motion to dismiss finding certain grounds in the petition are unexhausted and therefore the petition is a mixed petition. (ECF No. 22.) The Court ordered that within 30 days, Holmes must exercise one of his options regarding his unexhausted claims. (*Id.* at 10-11.) See *Rose v. Lundy*, 455 U.S. 509 (1982). In the order, the Court advised Holmes that his failure to timely comply with the order would result in the dismissal of his petition without further advanced notice. (*Id.* at 11.) Holmes has failed to timely respond to the Court's order.

It is therefore ordered that the mixed petition (ECF No. 6) is dismissed without prejudice.

It is further ordered that Holmes is denied a certificate of appealability, as jurists of reason would not find the Court's dismissal of the petition to be debatable or wrong.

The Clerk of Court is directed to enter final judgment accordingly and close this case.

DATED THIS 13<sup>th</sup> Day of October 2022.

  
MIRANDA M. DU  
CHIEF UNITED STATES DISTRICT JUDGE